SECTION-BY-SECTION ANALYSIS

SECTION 1 amends section 201(a) of the Immigration and Nationality Act, under which quotas for each country are determined. It abolishes the national origins system by reducing present quotas by one-fifth of their present number each year for five years. As numbers are released from national origins quotas, they are added to the quota reserve pool established by the amendment to section 201 of the Act made by section 3 of the bill. Thus in the first year, twenty per cent (roughly 32,000) are released to the pool; in the second year, the pool will have forty per cent of present quotas (or 64,000); until in the fifth year and thereafter, all numbers are allocated through the pool. To provide some immediate relief to minimum quota areas, the minimum quota is raised to 200, but is then reduced in the same manner as other quotas.

SECTION 2 amends section 201(b) of the Immigration and Nationality Act by changing a reference therein from "section 202(e)" to "section 202(d)" in conformity with the redesignation of section 202(e) as 202(d) made by SECTION 6(e) of the bill.

SECTION 3 amends section 201 of the Immigration and Nationality Act by adding a new subsection (f). This subsection

establishes the quota reserve pool from which all quota numbers will be allocated by the fifth year. In each of the five years constituting the period of transition, the pool will consist of (1) the numbers released from national origins quotas each year, and (2) numbers assigned to the old quota areas but unused the previous year because insufficient demand for them existed in the assigned quota area.

Quota numbers are issued in the order of preference specified in amended section 203 of the Immigration and Nationality Act (see Section 10 of the bill). That is, first call on the first fifty per cent is given to persons whose admission, by virtue of their exceptional skill, training or education, will be especially advantageous to the United States; first call on the next thirty per cent, plus any part of the first fifty per cent not issued for first preference purposes, is given to unmarried sons and daughters of United States citizens, not eligible for nonquota status because they are over 21 years of age; first call on the remaining twenty per cent, plus any part of the first eighty per cent not taken by the first two preference classes, is given to spouses and unmarried sons or daughters of aliens lawfully admitted for permanent residence; and any

portion remaining is issued to other quota visa applicants, with percentage preferences to other relatives of United States citizens and resident aliens, and then to certain classes of workers. Amended section 203 further provides that within each class, visas are issued in the order in which applied for--first come, first served. These preference provisions, which under present law determine only relative priority between nationals of the same country, will now determine priority between nationals of different countries throughout the world.

To prevent disproportionate benefits to the nationals of any single country, a maximum of ten per cent of the total authorized quota is set on immigration attributable to any quota area. However, this limitation is not applied if to do so would result in reducing any quota at a more rapid rate than that provided by amended section 201(a). Ultimately, of course, the limitation applies to all.

Exceptions to the principle of allocating visas on the basis of time-of-registration within preference classes are provided to deal with special problems. Since some countries' quotas are not current, their nationals have no old

registrations on file. To apply the principle rigidly would result, after four or five years, in curtailing immigration from these countries almost entirely. This would be undesirable not only because it would frustrate the aim of the bill that immigration from all countries should continue, but also because many of the countries that would be affected are our closest allies. Therefore, proposed section 201(f) would authorize the President, after consultation with the Immigration Board (established by SECTION 18), to reserve up to thirty per cent of the quota reserve pool for allocation to qualified immigrants (1) who could obtain visas under the existing system but not under the new system and (2) whose admission to the United States would further the national security interest by maintaining close ties with their countries. The number of quota visas so allocated may exceed the ten per cent limit on the number of immigrants from any country in the case of those countries which, under the existing system, regularly receive allocations in excess of that limit.

Subsection (f) also allows the President to reserve up to ten per cent of the quota reserve pool for allocation to certain

refugees and permits him to disregard priority of registration within preference classes for the benefit of such refugees. Many refugees, almost by definition, are uprooted suddenly. They had no thought of immigration until they were forced to leave the country in which they were living because of natural calamity or political upheaval; or they may be refugees from persecution or dictatorship, in which case previous registration would have been dangerous.

Finally, subsection (f) provides that if the President reserves, against contingencies, any numbers during the year, but thereafter finds them not to be needed for the named purposes, such numbers are to be issued as if they had not been reserved. Similarly, the ten per cent limitation on the number of visas to be issued to any quota area is made inoperable if its application would result in authorized quota numbers not being used.

SECTION 4 amends section 201(c) of the Immigration and Nationality Act, which presently limits the number of quota visas issued in any single month to ten per cent of the total yearly quota. This limitation is needed to ensure that persons entitled to preference by virtue of special skills or

family ties will not be foreclosed from preference by a rush of earlier applications which exhaust the annual quota. To ensure that all available quota numbers can nevertheless be utilized, present law provides that numbers not used during the first ten months of any fiscal year may be used during the last two months of such year, without regard to the ten per cent monthly limitation. Often, if close to the full ten per cent of quota visas is not issued in each of the first months of the year, undesirable administrative problems result in the last two. The amendment allows the issuance each month of the ten per cent authorized for that month plus any visas authorized but not issued in previous months. This permits a more even spacing of visa issuance during the year.

SECTION 5 amends section 201(d) of the Immigration and Nationality Act which now permits the issuance of quota immigrant visas to nonquota immigrants. Substituted for the provisions of section 201(d) is a specific direction that no quota immigrant visa shall be issued to a person who is eligible for a nonquota immigrant visa. This will prevent nonquota immigrants from preempting visas to the prejudice of qualified quota immigrants.

SECTION 6 amends section 202 of the Immigration and Nationality Act to eliminate the so-called "Asia-Pacific Triangle" provisions, which require persons of Asian stock to be attributed to quota areas not by their place of birth, but according to their racial ancestry. At the end of the five-year transition period, this provision would be in any event superfluous, since national origin will no longer be a standard for the admission of qualified quota immigrants. But the formula is so especially discriminatory that it should be removed immediately, and not be permitted to operate even in part during the five-year transition period.

Subsection (c) of the section amends section 202(c) of the Act so as to raise the minimum allotment to subquotas of dependent areas of a governing country, thus preserving their present equality with independent minimum-quota areas. The dependent area's allotment is taken from the governing country's quota. To prevent a dependent area from preempting the governing country's quota disproportionately, it is provided that the dependent area's share of the quota will decrease as the governing country's quota is reduced.

SECTION 7 amends section 207 of the Immigration and Nationality Act by deleting the language of that section which

prevents the issuance of visas in lieu of those issued but not actually used, or later found to be improperly issued. Thus in Germany alone over seven thousand quota visas are now taken by persons entitled to nonquota status, and two thousand more quota visas are issued to persons who do not actually apply for admission to the United States. All these quota visas are lost under the present law. Such a result is inconsistent with the aim of the bill that all authorized quota numbers shall be used. The amended section 207 specifically authorizes the issuance of a quota visa in lieu of one improperly issued or not actually used, utilizing the same quota number.

SECTION 8 amends section 101(a)(27)(A) of the Immigration and Nationality Act, which grants nonquota status to spouses and children of United States citizens, so as to extend nonquota status to parents of United States citizens as well.

SECTION 9 amends section 101(a)(27)(C) of the Immigration and Nationality Act so as to extend nonquota status to natives of all independent Western Hemisphere countries. Under present law, such status is granted to natives of all independent North, Central and South American countries, and of named Caribbean island countries which were independent when

the Immigration and Nationality Act was enacted in 1952. The amendment extends nonquota status to natives of countries in these areas which have gained their independence since then, or may gain their independence hereafter.

SECTION 10 amends section 203(a) of the Immigration and Nationality Act, which establishes preferences for immigrants with special skills and for relatives of United States citizens and resident aliens.

Subsection (a) relaxes the test for the first preference accorded to persons of high education, technical training, specialized experience, or exceptional ability. Under present law, such persons are granted preferred status only if the Attorney General determines that their services are "needed urgently" in the United States. The amendment allows them first preference if their services, as determined by the Attorney General, would be "especially advantageous" to the United States.

Subsection (b) eliminates the second preference for parents of American citizens, now accorded nonquota status by the amendment made by SECTION 8 of the bill.

Subsection (c) grants a fourth preference, up to fifty per cent of numbers not issued to the first three preferences, to parents of aliens lawfully admitted for permanent residence. It also grants a subsidiary preference to qualified quota immigrants capable of filling particular labor shortages in the United States. Under present law, immigrants who do not meet the rigorous standards of the skilled specialist category are not preferred over any other immigrants even though they can fill a definite labor need which other immigrants cannot fill. The amendment allows to such immigrants a preference of fifty per cent of the quota visas remaining after all family preferences have been satisfied or exhausted.

SECTION 11 amends section 204 of the Immigration and Nationality Act, which establishes the procedure for determining eligibility for preferred status under section 203.

The amendments made by paragraphs (1), (2), (3) and (4) cover the filing of petitions, on behalf of the workers accorded a fourth preference, by the persons who will employ them to fill the special labor needs. Paragraph (1) provides for approval of these petitions by the Attorney General, and paragraph (2) requires that he consult with the Immigration

Board and interested departments of government before granting preference to these workers.

Paragraph (2) also exempts first preference skilled specialists from the present petition procedure because under the bill a new procedure is established for such persons. Under present law, skilled specialists may qualify for preferred status only when a petition requesting their services is filed by a United States employer. This requirement unduly restricts our ability to attract those whose services would substantially enhance our economy, cultural interests, and welfare. Many of these people have no way of contacting employers in the United States in order to obtain the required employment. Even if they knew whom to contact, few openings important enough to attract such highly-skilled people are offered without personal interviews, and only a few very large enterprises or institutions have representatives abroad with hiring authority. Thus many such skilled specialists cannot obtain the employment presently required for first preference status.

Moreover, the requirement of prearranged employment is in fact unnecessary. Highly-skilled specialists would obviously work

at their specialty, provided that employment is open. The only check needed is that the Attorney General ascertain, upon consultation with appropriate government agencies, that job openings exist in the specialist's particular field. Although the present petition procedure serves to confirm the individual's own evidence of his training, education, or skills, such confirmation is not essential if proper investigation is made of his qualifications before the preference is accorded.

Paragraph (5), therefore, allows the Attorney General to grant a first preference to skilled specialists upon their own petitions, supported by such documentation as the Attorney General shall require. In this connection it is to be noted that the existing law requiring an investigation by the Attorney General of the petitioner's qualifications and a determination of his eligibility for a first preference is continued.

SECTION 12 amends section 205(b) of the Immigration and Nationality Act, providing for petitions to establish eligibility for preference as a relative of a United States citizen or lawfully resident alien, to conform to the substantive amendments made by SECTION 10.

SECTION 13 amends the "Fair Share" refugee law so as to remove a provision which has hampered its effective operation. Presently, the entry of refugees is subject to the condition that they be within the mandate of the United Nations High Commissioner for Refugees. The mandate provision is eliminated, so that the refugee law will no longer be subject to outside control. In addition, subsection (b) enlarges the applicable area definition so as to allow the entry of refugees from North Africa generally, and Algeria particularly, who are unable to return to their countries because of their race, religion, or political opinions, and incorporates this new definition in the "Fair Share" law. The existing definition encompasses refugees from "any country within the general area of the Middle East," which is defined as the area between Libya on the West, Turkey on the North, Pakistan on the East, and Saudi Arabia and Ethiopa on the South. The new definition substitutes Morocco for Libya as the western border of this area.

SECTION 14 repeals the "Fair Share" law's special provision for five hundred "difficult to resettle" refugees; all such persons have been taken care of, and the authority is therefore no longer necessary.

SECTION 15 amends section 281 of the Immigration and Nationality Act so as to grant discretionary authority to the Secretary of State to specify the time and manner of payment of the fees for visa applications and issuances. This discretionary authority will allow the Secretary to control two undesirable situations:

First, many people in countries with oversubscribed quotas register their names on visa waiting lists even though they have no present intention of emigrating; they regard the registration as "insurance" for possible future use. Such registrations have the effect of creating a distorted picture of visa backlogs and make efficient administration difficult. The amendment therefore would allow the Secretary of State to require a registrant to deposit a fee at the time of registration. While not unduly burdensome on those who wish to come here, such a procedure would serve to discourage registrations which are not bona fide.

Second, otherwise admissible immigrants, particularly refugees, are often unable to pay the required visa fee. Rather than bar them from obtaining a visa, the Secretary is given authority to postpone payment.

SECTION 16 is also directed to the problem of "insurance" registrations. Many applicants for visas have been offered visas repeatedly but have turned them down. They wish only to preserve their priority in registration for possible future use. To handle such cases, section 203(c) of the Immigration and Nationality Act is amended so as to allow the Secretary of State to terminate the registrations of persons who have previously declined visas. This amendment is also important in connection with a contemplated re-registration of applicants in certain over-subscribed quota areas designed to ascertain whether registrants have died, emigrated elsewhere, or changed their minds; the Secretary is authorized to terminate the registration of all persons who fail to re-register.

SECTION 17 amends subsections (a)(1), (a)(4) and (g), as redesignated, of section 212 of the Immigration and Nationality Act so as to allow the entry of certain mentally afflicted persons. Under present law, no visas may be issued to aliens

who are feeble-minded or insane, or have had one or more attacks of insanity, or who are afflicted with a psychopathic personality, epilepsy, or a mental defect. These provisions have created hardships for families seeking admission, where one member, often a child, is retarded. Such families are presented with the difficult decision as to whether they should leave the afflicted person behind or stay with him. Such a person cannot enter the United States even if the family is willing and able to care for him here and even if he is within the 85 per cent of mentally afflicted persons whose condition can be substantially improved by adequate treatment.

The amendment gives the Attorney General discretionary authority to admit such persons who are the spouses, children, or parents of citizens or resident aliens, or who are accompanying a member of their family. The Attorney General, after consultation with the Surgeon General of the United States Public Health Service, would prescribe the controls and conditions on the entry of such persons, including the giving of a bond to insure continued family support.

The bar against the admission of epileptics is removed entirely, since this affliction can effectively be medically

controlled. The amendment would also provide that the term "mentally retarded" be substituted for the present term "feeble-minded." This is not a substantive change in the law.

SECTION 18 establishes the Immigration Board, to be composed of seven members. Two members of the House of Representatives are appointed by the Speaker with the approval of the majority and minority leaders, two members of the Senate, by the President of the Senate, with the approval of the majority and minority leaders, and three members, including the chairman, by the President. Members not otherwise in government service are to be paid on a per diem basis for actual time spent in the work of the Board.

The section provides that the Board's duties shall be to study, and consult with appropriate government departments on all facets of immigration policy; to make recommendations to the President as to the reservation and allocation of quota numbers, and to recommend to the Attorney General criteria for admission of skilled specialists and workers whose services are needed by reason of labor shortages in this country.

SECTION 19 grants consular officers discretionary authority to require bonds ensuring that certain non-immigrants will depart voluntarily from the United States when required. This amendment to section 221(g) of the Immigration and Nationality Act, by providing an additional safeguard against a later refusal to depart, would allow the issuance of visas in many borderline cases in which visas are now refused to students and visitors.

SECTION 20 amends section 272 of the Immigration and Nationality Act, which imposes a penalty on carriers bringing to the United States aliens afflicted with certain defects, so as to make that section conform with the changes made by this bill and section 11 of the Act of September 26, 1961.